

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

WILLIAM E. GOLLIHER, JR.,

Plaintiff,

v.

**JACKSON COUNTY ILLINOIS,
SHERIFF'S DEPARTMENT, ,
MICHAEL TEAS, ROBERT BURNS,
DAN D. STONE, RYAN SYKES,
MIKE RYAN, and
FRED HUNZIKER,**

Defendants.

Civil No. **04-879-DRH**

ORDER

PROUD, Magistrate Judge:

Before the Court is defendants' Motion to Strike Supplemental Affidavit. **(Doc. 50).**

Defendants Jackson County Illinois Sheriff's Department, Michael Teas, Robert Burns, Dan D Stone, Ryan Sykes, and Mike Ryan filed a motion for summary judgment **(Doc. 39)** on September 13, 2005. It was supported by the affidavit of Cheryl Golliher, plaintiff's wife. **(Doc. 41).** In response, plaintiff filed an "objection" to the affidavit, which was accompanied by a second affidavit executed by Cheryl Golliher. **See, Doc. 43.**

On February 3, 2006, plaintiff filed a third affidavit executed by Cheryl, dated January 29, 2006. In this affidavit, Cheryl states that she was upset and crying when she signed the first affidavit, and she states that the first affidavit was inaccurate in stating that she resided at and had control over the residence at 201 21st Street. Defendants ask the Court to strike the January 29, 2006, affidavit because it was filed more than thirty days after their motion for summary judgment and therefore was untimely.

The Court denies the motion. The pro se plaintiff filed a motion for extension of time to respond to the motion for summary judgment, which was granted. **See, Doc. 52.** In addition, striking the affidavit would have little practical effect. Defendant Hunziker filed a second motion for summary judgment on February 24, 2006, which makes the same arguments as the first motion. The information contained in the subject affidavit was set forth in plaintiff's objection to the first affidavit, **Doc. 43**, and in his response to the second motion, **Doc. 54**, which were timely filed.

Upon consideration and for good cause shown, defendants' Motion to Strike Supplemental Affidavit (**Doc. 50**) is **DENIED**.

IT IS SO ORDERED.

DATE: August 24, 2006.

s/ Clifford J. Proud
CLIFFORD J. PROUD
UNITED STATES MAGISTRATE JUDGE